

REMARKS/ARGUMENTS

The Office Action mailed April 29, 2004 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claims 28, 33, and 38 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention, and to make elements of those claims more closely align with the other independent claims.

In view of the Examiner's earlier restriction requirement, Applicant retains the right to present claims 17-27 in a divisional application.

Telephone Interview

On July 8th, 2004, Applicant telephoned the Examiner to discuss a potential typographical error in the Office Action. In paragraph 11, the Office Action indicated a group of claims were rejected based upon the Hirviniemi and Richards references, but in paragraph 12, it indicated the same group of claims were rejected based upon the Hirviniemi and Dowling references. The Examiner confirmed that this was merely a typographical error, and that the Richards reference should have read "Dowling". Applicant kindly thanks the Examiner for granting this interview and clearing this issue up. This amendment responds to the Office Action in light of this information.

The First 35 U.S.C. § 103 Rejection

Claims 1-4, 6, 8 and 9 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hirviniemi¹ in view of Dowling et al.,² among which claim 1 is an independent claim. This rejection is respectfully traversed.

The Office Action states that “Dowling teaches means for emulation of an ‘always connected’ type I/O device driver even though the communications are transmitted over a ‘connection establishment’ type network (column 2, line 66 though column 3, line 63).” Applicant maintains, however, that neither Dowling nor Hirviniemi teach or suggest “wherein in response to said emulation means said application software functions as though said communications are being transmitted over an ‘always connected’ type network with another computer system utilizing ‘always connected’ type protocol,” as specified in claim 1.

Emulation is known in the world of computer systems to be the mimicking of an aspect of computer functionality, essentially “fooling” someone or something into thinking it is dealing with a type of component or application that it is not. As such, emulation requires that there be a “fooled” party, and the emulation may change based not only upon the type of component or application being mimicked, but also based on who or what the ‘fooled’ party is.

In claim 1, Applicant maintains that it is clear that the “fooled” party is in fact the application software, as the emulation works in a way to ensure that the application software functions as though the communications are being transmitted over an ‘always connected’ type

¹ U.S. Patent 5,802,285

² U.S. Patent 6,574,239

network. The claim also states that there are means for “emulating the operation of an ‘always connected’ type I/O device driver *to said application software*” (emphasis added).

Dowling, however, does not involve the fooling of the application software, but instead involves the fooling of a user of the application software into thinking he is on an “always connected’ network. Col. 7, line 66 through col. 8, line 3, states:

In embodiments where file synchronization is not an issue or is handled using file semaphores, the software implementing the workflow automatically downloads information before it is needed and later automatically uploads new information after it has been gathered. This way, users need not even be aware they are not connected at all times. The user is not burdened with the need to connect and reconnect, and need not be burdened with downloading and uploading data. The user experiences the full benefit of being continuously connected to the central server without the associated cost of remaining continuously connected via a physical connection. In systems where file semaphores are not employed, the physical connection is established just before the workflow indicates it will not be needed for some time.

Thus, Dowling requires that the remote unit and the application software work together to fool the user into thinking he is on an “always connected” network. This is not the same as having emulation means fool application software into thinking it is on an “always connected” network. Applicant is unaware of whether the term “emulation” is appropriately applied to a system that only fools a human being, but doesn’t fool any component or process in the system. However, to the extent that the term “emulation” is still appropriate, Dowling’s emulation is performed to a user, and not to the application software.

Applicant would also like to point out that this is not a minor distinction. In Dowling, the application software will need to be specifically designed to work with a “connection establishment” network. As stated in the above section from Dowling, if synchronization is not an issue or is handled using semaphores, the software implementing the workflow automatically downloads information before it is needed. Applicant maintains that this is not the action of an application software that has been “fooled” into thinking that it is on an “always connected” network. If it were fooled, it would act normally, which would almost certainly involve requesting information when it is needed, not before. The application software in Dowling is specifically designed to request the information early because it knows is not on an “always connected” network, and as such is in no way “fooled” into thinking it is on an “always connected” network.

Additionally, as stated in the above section from Dowling, if semaphores are not employed, the physical connection is established just before the workflow indicates it will be needed and is dropped when the workflow indicates it will not be needed for some time. Thus, in this case, the application software must be specifically designed to somehow communicate when it is going to need a physical connection and when it is not. Applicant respectfully maintains that this clearly is not how software that has been “fooled” into thinking it is on an “always connected” network would act.

One of the advantages of the presently claimed invention is that it does not require that application software that has been designed for an “always connected” network be

modified when used in a “connection establishment” network. Applicant feels it is important to point this out in order to illustrate the difference between emulating an “always connected” network to application software, and emulating an “always connected” network to a user.

Applicant also points out that Dowling also then clearly wouldn’t teach using “always connected” type protocol for the communications, as both the sending component and the receiving component would be acting under the (correct) belief that they are on a “connection establishment” network.

In light of this, and the fact that the Office Action does not allege that Hirviniemi teaches emulating an “always connected” type network, Applicant respectfully submits that the prior art does not teach “means for emulating the operation of an ‘always connected’ type I/O device driver to said application software” or “wherein in response to said emulation means said application software functions as though said communications are being transmitted over an ‘always connected’ type network with another computer system utilizing ‘always connected’ type protocol.”

As such, Applicant respectfully submits that claim 1 is in condition for allowance.

As to dependent claims 2-4, 6, and 8-9, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

The Second 35 U.S.C. § 103 Rejection

Claims 10-13, 15, 28-30, 33-35 and 38 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hirviniemi and Richards³ in further view of the applicant admitted prior art⁴ among which claims 10, 28, 33 and 38 are independent claims. This rejection is respectfully traversed.

Claim 10 contains the element “emulating the operation of an ‘always connected’ type I/O device driver thereby causing said application software to function as though communications are being transmitted over a network with another computer utilizing an ‘always connected’ type protocol”.

Claims 28, 33, and 38, as amended contain the element “emulating the operation of an ‘always connected’ type device driver to said application software.”

Applicant maintains that both these elements indicate that the emulation is performed in such a way that it fools the application software, and not merely a user. As such, Applicant maintains that the remarks made in response to the First 35 U.S.C. § 103 Rejection above are equally applicable here, and thus claims 10, 28, 33, and 38 are in condition for allowance.

As to dependent claims 11-13, 15, 29-30, and 34-35, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

³ U.S. Patent 4,853,954

⁴ AAPA

The Third 35 U.S.C. § 103 Rejection

Claims 5, 7, 14, 16, 31, 32, 36 and 37 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hirviniemi and Dowling et al., and further in view of Bhatia et al.⁵.

This rejection is respectfully traversed.

As to dependent claims 5, 7, 14, 16, 31, 32, 36 and 37, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

⁵ U.S. Patent 6,028,848


Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

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